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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,860	03/17/2004	Hitoshi Kino	26B-026	1979

23400 7590 07/27/2005

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

MCMAHON, MARGUERITE J

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/801,860	KINO ET AL.	
	Examiner	Art Unit	
	Marguerite J. McMahon	3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/17/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1, 6, and 7 are objected to because of the following informalities: In line 2 of claims 1 and 7 "should be" should be --is--; in lines 5-7 of claims 1 and 7 "an air cleaner hose disposed on the downstream side of the air cleaner and for supplying the filtered intake air to a combustion chamber of an engine to thereby define an intake air passageway laid out between the inlet and the combustion chamber" is confusing because the intake air passageway is not really *defined* by the air cleaner hose 5, and the parameters of the intake air passageway are never clearly defined in the claim language; in line 10 of claim 1 "'the whole passageway length' of the intake air passageway" is unclear as a result (similarly in claim 7 "the whole length of the intake air passageway" is also unclear); and in lines in line 9 of claims 1 "wherein the wall is configured to surround an antinode of a lower resonance mode" is unclear; does this means that an anotinode occurs at either end of the "intake air passageway" or does an antinode occur in the middle of the passageway, or in some other configuration? The same problem occurs with similar but slightly different language in lines 9-10 of claim 7. Claim 6 is also unclear because "the lower resonance mode corresponding to the whole passageway length of the intake air passageway" is unclear for the reasons given above. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeda (4,538,556) in view of Kino et al (6,517,595). Takeda shows an air intake apparatus comprising: an air intake duct 10 provided with an inlet through which intake air should be introduced; an air cleaner 1 disposed on the downstream side of the air intake duct and for filtering the intake air; an air cleaner hose 2 disposed on the downstream side of the air cleaner and for supplying the filtered intake air to a combustion chamber of an engine to thereby define an intake air passageway laid out between the inlet and the combustion chamber; a wall member 5 disposed, with valve 7, to block a communicating path disposed in a wall of the intake air passageway wherein the wall is configured to surround an antinode of a lower resonance mode corresponding to the whole passageway length of the intake air passageway; and a valve 7 disposed in the wall for opening the communicating path to allow the inside of the intake air passageway to communicate with the outside thereof at least when the lower resonance mode occurs. Takeda shows everything except he does not employ an air permeable member or discuss the placement of the antinodes. Kino et al teach that it is old in the art to employ an air permeable member 14 in the wall member 5. It would have been obvious to one having ordinary skill in the art to modify Takeda by employing an air permeable member, in order to reduce noise levels. In addition, the placement of the air-permeable member on the inner side of the path or the outer side of the path, with respect to the valve, would have been an obvious matter of design

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choice, as evidenced by claims 8 and 9 claiming it both ways. Furthermore, the discussion of the antinodes is vague enough that it reads on the reference.

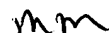
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 703-308-1956. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MARGUERITE MCMAHON
PRIMARY EXAMINER**